

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

<p>INTERVARSITY CHRISTIAN FELLOWSHIP/USA, <i>et al.</i>,</p>	<p>Civil Action No. 3:19-CV-10375-RHC-SDD</p>
--	---

Plaintiffs,

v.

BOARD OF GOVERNORS OF
WAYNE STATE UNIVERSITY, *et
al.*,

Defendants.

**STIPULATION REGARDING
COURT'S ORDER FOR
ADDITIONAL BRIEFING ON
COUNTS 10 AND 16-19**

Pursuant to the Court's Opinion and Order Granting Plaintiffs' Motion for Partial Summary Judgment, Granting in Part and Denying in Part Defendants' Motion for Summary Judgment, and Ordering Additional Briefing (the "Order") (ECF No. 69, as amended by ECF No. 70¹), the Parties hereby stipulate as follows:

1. The Parties filed and fully briefed cross motions for summary judgment. (*See generally* ECF Nos. 45, 47, 53, 55, 58, and 59.) Defendants sought summary judgment on all counts, but Plaintiffs only moved on certain counts. Plaintiffs did not move for summary judgment on the following claims: Free Speech Rights under the Michigan Constitution (Counts 16-19); the Equal Protection Clause

¹ Because the amendment addressed only typographical errors, the Parties refer herein to the original Order.

(Count 10); the Due Process Clause (Count 20); and the Elliott Larsen Civil Rights Act (“ELCRA”) (Count 13).

2. On April 5, 2021, the Court entered the Order. In relevant part, the Court denied Defendants’ motion for summary judgment on Plaintiffs’ free speech claims under the Michigan Constitution (Counts 16-19) and Plaintiffs’ claim under the Equal Protection Clause (Count 10). (*See* ECF No. 69, PageID.2929-2931.) The Court gave notice to the parties that it would *sua sponte* consider summary judgment in favor of Plaintiffs on these claims. (*Id.*)

3. Accordingly, the Court ordered that “Defendants shall respond to the court’s consideration of summary judgment as to Plaintiffs’ claims under the Michigan Constitution (Counts 16-19) and the Equal Protection Clause (Count 10) by April 26, 2021. Plaintiffs may reply by May 10, 2021. Parties may submit a stipulation in lieu of briefing.” (*Id.*, PageID.2937.)

4. The Parties, having conferred, believe that these issues have been fully briefed and that the interests of efficiency and judicial economy will be served by a ruling of the Court on Plaintiffs’ claims under the Michigan Constitution (Counts 16-19) and the Equal Protection Clause (Count 10) without further briefing by the Parties.

5. The Parties make this stipulation without any reference to the merits of the arguments presented.

6. The Parties stipulate that the failure to submit further briefing shall not impact any Party's ability to appeal the Court's ultimate decision on Plaintiffs' claims under the Michigan Constitution (Counts 16-19) and the Equal Protection Clause (Count 10).

For all the foregoing reasons, the parties jointly request that this stipulation be affirmed. A proposed order is included.

Dated: April 26, 2020

By: /s/ Lori H. Windham (w/
permission)

Lori H. Windham
Eric C. Rassbach
Daniel H. Blomberg
Eric S. Baxter
The Becket Fund for Religious
Liberty
1200 New Hampshire Ave. NW,
Washington, DC, 20036
(202) 955-0095 phone
(202) 955-0090 fax
lwindham@becketlaw.org

Paul C. Schultz
Mitzel Law Group
1590 Eisenhower Place
Ann Arbor, MI 48108
734-668-4109
Fax: 734-668-4101
Email: pschultz@mitzellaw.com

Counsel for Plaintiffs

Respectfully submitted,

By: /s/ Andrew M. Pauwels
J. Michael Huget (P39150)
Leonard M. Niehoff (P36695)
Andrew M. Pauwels (P79167)
Rian C. Dawson (P81187)
Honigman LLP
315 E. Eisenhower, Suite 100
Ann Arbor, Michigan 48108
(734) 418-4200
mhuguet@honigman.com
lniehoff@honigman.com
apauwels@honigman.com
rdawson@honigman.com

Counsel for Defendants

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

<p>INTERVARSITY CHRISTIAN FELLOWSHIP/USA, <i>et al.</i>,</p>	<p>Civil Action No. 3:19-CV-10375-RHC-SDD</p>
<p><i>Plaintiffs,</i></p> <p>v.</p> <p>BOARD OF GOVERNORS OF WAYNE STATE UNIVERSITY, <i>et al.</i>,</p> <p><i>Defendants.</i></p>	<p>ORDER GRANTING STIPULATION REGARDING COURT'S ORDER FOR ADDITIONAL BRIEFING ON COUNTS 10 AND 16-19</p>

The Court, having considered the Parties' Stipulation, ORDERS that

- (1) The Stipulation is hereby GRANTED;
- (2) The Court shall rule on the Court's *sua sponte* consideration of summary judgment in favor of Plaintiffs' on their claims under the Michigan Constitution (Counts 16-19) and the Equal Protection Clause (Count 10) without further briefing by the Parties; and
- (3) This Order does not preclude appeal by either party of the Court's order regarding Plaintiffs' claims under the Michigan Constitution (Counts 16-19) and the Equal Protection Clause (Count 10).

Dated: April 29, 2021

s/Robert H. Cleland

JUDGE ROBERT H. CLELAND
UNITED STATES DISTRICT COURT